

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued January 27, 2005)

1. On November 2, 2004, ISO New England, Inc., the Connecticut Parties,¹ the NRG Parties,² and the other Settling Parties³ in this proceeding (collectively the Parties) filed an Offer of Settlement⁴ (Settlement) in the above-referenced dockets. Included with the proposed settlement was an Explanatory Statement, and copies of Reliability Must-Run Agreements (RMR Agreements) among certain of the Settling Parties and ISO NE, and related contracts. The RMR Agreements provide for the payment of a Monthly Fixed Charge to be determined by the Commission pursuant to Federal Power Act section 205. On November 12, 2004 and December 1, 2004, erratas to the original November 2, 2004 filing were filed which did not change the substance of the Settlement.
2. Commission Trial Staff filed comments in support of the Settlement. No other comments were received. On December 16, 2004, the Administrative Law Judge certified the Settlement to the Commission as uncontested, 109 FERC ¶ 63,050.
3. The Settlement is in the public interest and is hereby approved. In addition, the rate schedules submitted as part of the settlement are in compliance with Order No. 614, *FERC Statutes and Regulations, Regulations Preambles July 1996 – December 2000* ¶ 31,096 (2000), and are accepted for filing as designated. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

¹ The Connecticut Parties include the Connecticut Department of Public Utility Control and the Connecticut Office of Consumer Counsel.

² The NRG Parties include Devon Power LLC, Middletown Power LLC, Montville Power LLC, Norwalk Power LLC, Connecticut Jet Power LLC, and NRG Power Marketing Inc.

³ The following Settling Parties explicitly support the settlement: FPL Energy, LLC, Select Energy Inc., PSEG Energy Resources & Trade LLC, PPL EnergyPlus, LLC, PPL Wallingford Energy LLC, Dominion Energy Marketing, Inc., Dominion Resources, Inc., and Dominion Nuclear Connecticut, Inc.

⁴ The Settlement also partially resolves the issues in Docket Nos. ER03-563-032, ER03-563-037, ER03-563-040 and ER03-563-042. Those dockets are not terminated by this order.

4. The Settlement essentially sets out terms and conditions for electric generation units identified as required for reliability purposes in import constrained Southwest Connecticut. It balances the concerns and positions of Settling Parties regarding cost of service, payments for reliability services, and an Operating Reserve payment refund. As part of the Offer of Settlement, revised RMR agreements and other related contracts that reflected the revised rate schedules previously filed in the above-referenced dockets were filed. The revised rate schedules are hereby accepted for filing and made effective as of the dates specified in those schedules.

5. NRG will refund to the ISO the amount by which their reliability cost tracker costs are less than the \$30 million cap amount specified in the Settlement. NRG shall file with the Commission a revised Schedule 1 under the Settlement Cost of Service Agreement to provide for equal monthly payments between January 1, 2005, through December 31, 2005 of that amount, and shall file a compliance refund report with the Commission no later than March 1, 2006.

6. This order terminates Docket Nos. ER02-2463-000, ER02-2463-001, ER02-2463-002, ER02-2463-003, ER03-563-029, ER03-563-034, ER03-563-035, ER03-563-041, ER04-23-000, ER04-23-001, ER04-23-002, ER04-23-003, ER04-23-004, ER04-23-005, ER04-23-006, ER04-23-007, ER04-23-008, ER04-464-000, ER04-464-001, ER04-464-002, ER04-464-003, ER04-464-004, ER04-464-005, ER04-464-006, ER04-464-007, ER04-903-000 and ER04-903-001.

By the Commission. Commission Kelly not participating.

(S E A L)

Magalie R. Salas,
Secretary.